

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Dov Levavi	Team: Team # 4	CCRB Case #: 201304963	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Wednesday, 05/29/2013 6:40 AM	Location of Incident: § 87(2)(b)	Precinct: 122	18 Mo. SOL 11/29/2014	EO SOL 11/29/2014	
Date/Time CV Reported Thu, 05/30/2013 1:30 AM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Wed, 06/05/2013 4:52 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. DT3 Brendan Obrien	06356	922883	NARCBSI
2. DT3 Mathew Reich	00122	933211	NARCBSI
3. SGT Matthew Fried	1790	934884	070 PCT
4. SDS Cornelius Buckley	03282	903506	NARCBSI
5. DT2 Cesar Brenes	05639	913611	NARCBSI
6. DT3 Steven Marshall	1207	938942	NARCBSI
7. An officer			

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. LT Dominick Capuano	00000	917377	PSA 1
2. DT3 Joseph Ryan	06479	929101	NARCBSI
3. DT3 Stacy Meigs	03273	931824	NARCBSI
4. POM Clyde Moyer	28894	946038	NARCBSI
5. DT2 Nelva Centeno	03109	897174	NAR DIV
6. DT3 Stephani Sanchez	03033	926067	NARCBSI
7. DT3 Michael Rivera	05055	927423	NARCBSI
8. DT3 James Malpeso	02939	932948	NARCBSI
9. DT2 Vincent Dicrescento	07466	901459	NARCBSI
10. DT2 Raymond Wittick	00710	905308	NARCBSI
11. DT3 Steven Sposito	05103	926161	NARCBSI

Officer(s)	Allegation	Investigator Recommendation
A.DT3 Brendan Obrien	Abuse: Det. Brendan O'Brien entered and searched § 87(2)(b) in Staten Island.	

Officer(s)	Allegation	Investigator Recommendation
B.DT3 Mathew Reich	Force: Det. Mathew Reich used a chokehold against § 87(2)(b)	
C.DT3 Mathew Reich	Discourtesy: Det. Mathew Reich spoke discourteously to § 87(2)(b)	
D.DT3 Mathew Reich	Force: Det. Mathew Reich used physical force against § 87(2)(b)	
E. An officer	Force: An officer struck § 87(2)(b) with a police shield.	
F.SGT Matthew Fried	Force: Det. Matthew Fried used physical force against § 87(2)(b)	
G.DT2 Cesar Brenes	Force: Det. Cesar Brenes used physical force against § 87(2)(b)	
H.DT3 Steven Marshall	Force: Det. Steven Marshall used physical force against § 87(2)(b)	
I.SDS Cornelius Buckley	Force: Sgt. Cornelius Buckley used physical force against § 87(2)(b)	

Case Summary

On May 30, 2013, Det. Joseph Christophe of IAB Group 9 called the IAB command center from the 120th Precinct stationhouse to report a complaint against officers made by § 87(2)(b). The complaint was received by the CCRB on June 5, 2013 under log number 13-23509 (encl. b1-3). At 6:40 a.m. on May 29, 2013, officers assigned to Narcotics Borough Staten Island executed a search warrant at § 87(2)(b) in Staten Island. The following allegations resulted:

Allegation A – Abuse of Authority: Det. Brendan O’Brien entered and searched § 87(2)(b) in Staten Island.

§ 87(2)(g)

Allegation B – Force: Det. Mathew Reich used a chokehold against § 87(2)(b)

Allegation D – Force: Det. Mathew Reich used physical force against § 87(2)(b)

Allegation F – Force: Det. Matthew Fried used physical force against § 87(2)(b)

Allegation G – Force: Det. Cesar Brenes used physical force against § 87(2)(b)

Allegation H – Force: Det. Steven Marshall used physical force against § 87(2)(b)

Allegation I – Force: Sgt. Cornelius Buckley used physical force against § 87(2)(b)

§ 87(2)(g)

Allegation C – Discourtesy: Det. Mathew Reich spoke discourteously to § 87(2)(b)

§ 87(2)(g)

Allegation E – Force: An officer struck § 87(2)(b) with a police shield.

Because the investigation was unable to identify the officer who allegedly struck § 87(2)(b) with a police shield, it is recommended that Allegation E be closed as **officer unidentified**.

This case was initially assigned to Inv. Jonathan Phillips and was reassigned to ASI Dov Levavi upon Inv. Phillips’ departure from the agency.

On April 30, 2014, an IAB Spin-off (CCRB case 201404176) was made in regard to § 87(2)(b)’s allegations that officers seized property from his residence.

Results of Investigation

Civilian Statement(s)

Complainant/Victim: § 87(2)(b)

- A § 87(2)(b)

Arrest Photograph

§ 87(2)(b)’s arrest photograph (encl. b46) shows a bruise to his left cheek, under his eye.

IAB Photographs

IAB's investigative case file included eight photographs (encl. b10-17) of § 87(2)(b)'s injuries, taken at the time of his IAB interview on May 30, 2013. The photographs show bruising to the left side of § 87(2)(b)'s face and redness to his left eye. Three of the photographs depict § 87(2)(b)'s knees.

Statements to Medical Personnel

According to the Ambulance Call Report prepared when EMTs treated § 87(2)(b) at the 120th Precinct stationhouse on May 29, 2013, § 87(2)(b)'s chief complaint was "pain to left cheek." According to the narrative, § 87(2)(b) "complained of being in a fight and getting punched in the left cheek." § 87(2)(b) denied any other injury or trauma at the time and refused transport to the hospital, as he did not want to miss court. § 87(2)(b) signed the form indicating that he was refusing treatment/transportation. (encl. privileged records folder)

CCRB Statement

§ 87(2)(b) provided a statement to IAB on May 30, 2013 (encl. b7-9) and was interviewed at the CCRB on June 18, 2013 (encl. b18-21). His statements were consistent, with exceptions noted.

At 6:40 a.m. on May 29, 2013, § 87(2)(b) was sleeping alone inside of his second floor bedroom located at § 87(2)(b) in Staten Island. § 87(2)(b) lives in the two-floor unit located at § 87(2)(b) with his brother, § 87(2)(b) and his friend, § 87(2)(b)'s father, § 87(2)(b) was visiting, and on the morning in question, § 87(2)(b) was asleep on the ground floor, where the kitchen, living room, and bathroom are located. § 87(2)(b)'s two friends, § 87(2)(b), § 87(2)(b) and § 87(2)(b) were also visiting. § 87(2)(b) was asleep inside § 87(2)(b)'s bedroom, which is the third bedroom located from the staircase on the second floor, and § 87(2)(b) was asleep in § 87(2)(b)'s bedroom, the second bedroom located from the staircase leading to the second floor. § 87(2)(b)'s bedroom, the master bedroom, is the first bedroom located from the staircase on the second floor. § 87(2)(b)'s father, § 87(2)(b) lives in the basement of § 87(2)(b) but the basement is not connected to the unit that § 87(2)(b) shares with his brother and § 87(2)(b).

§ 87(2)(b) and his friends had been out the night before this incident and did not arrive home until about 5:00 a.m. They were at a friend's house and had not consumed any alcohol or drugs. Shortly after arriving home, § 87(2)(b) fell asleep in his bedroom. § 87(2)(b) was awoken when PO1 (described as a "portly" white male with a brown goatee who appeared to be in his mid-30s, 5'11" tall, 220-230 pounds and dressed in hoody and jeans), identified by the CCRB as Det. Mathew Reich, climbed on top of the bed next to § 87(2)(b) wrapped his right arm around § 87(2)(b)'s throat and placed him into a headlock for about 30 seconds. Det. Reich yelled, "Get on your knees. Get on your knees, asshole. Get on your knees." § 87(2)(b) who could not breathe, said at least four times, "I can't breathe."

While being held by Det. Reich, § 87(2)(b) extended his arms to each side but he did not recall making any other movements with his arms; he remained on his stomach and made no attempt to get Det. Reich's arm away from his neck. Det. Reich pulled his right arm towards his own body with his right arm still wrapped around § 87(2)(b)'s throat, lifting § 87(2)(b)'s stomach from his mattress. § 87(2)(b)'s knees hyperextended. Det. Reich then pushed § 87(2)(b) down onto his mattress, released his grasp of § 87(2)(b)'s throat with his right arm, and punched § 87(2)(b) with a closed fist about 3-4 times in the back of his head while § 87(2)(b) was in a fetal position on top of his bed. Det. Reich told § 87(2)(b) to "stop resisting" even though § 87(2)(b) was not resisting. § 87(2)(b) stated that the only movement he made with his hands was lifting them up near his face and head and covering his head.

Two plainclothes male officers entered § 87(2)(b)'s bedroom. One of these officers, a skinny Hispanic male who was around 5'11" tall, carried a riot shield and said, "Stop resisting." § 87(2)(b) was struck in the left side of his face near his left eye with a police shield two times. § 87(2)(b) was uncertain which officer struck him in the face with the shield but he stated that in addition to the Hispanic officer, there was also a portly white male in his room whom he saw carrying a police shield. The officers then assisted Det. Reich in pulling § 87(2)(b)'s arms behind his back and handcuffing him.

The officers then lifted § 87(2)(b) up from his stomach so that he was seated atop his bed. From there, each officer present inside the room punched § 87(2)(b) in the face. Det. Reich punched § 87(2)(b) in the mouth about 5 times with both fists while "grounding and pounding" him and saying, "Yeah, yeah, that's why you're bleeding, yeah, yeah, yeah!" As a result of punching § 87(2)(b) Det. Reich's knuckles began to bleed. During the time that Det. Reich punched § 87(2)(b) PO4 (described as a plainclothes portly white male who was balding and who stood 5'7", 220 lbs. and who appeared to be in his early 40s) punched § 87(2)(b) in the left eye about 2 times, the left side of his face near his jaw and nose about 3-4 times and in the rear left side of his head 1 time.

When questioned during his CCRB interview who else punched him, § 87(2)(b) stated that every officer who entered his bedroom (he estimated it to be at least 7 officers) punched him at least one time during a course of 3-4 minutes while he was handcuffed behind his back and was positioned on top of his bed on his back. § 87(2)(b) was asked to give physical descriptions of the additional officers who punched him, but he described them only as portly white males who wore hoodies; he could not provide any additional descriptive information about them. He stated that there were several officers who only entered his room, punched him in the face after he was handcuffed, and left the room, without performing any other functions. § 87(2)(b) described this as the officers "getting their hits in" and "getting their rocks off" and stated that the officers enjoyed punching him. The investigation determined that in addition to Det. Reich, Det. Fried and possibly Det. Rivera, additional officers in § 87(2)(b)'s room were Det. Steven Marshall, Det. Cesar Brenes and Sgt. Cornelius Buckley. In his statement to IAB, § 87(2)(b) stated he was struck in the face approximately ten times with fists and protective shields prior to being handcuffed, and another five times with fists after being handcuffed.

During the time that § 87(2)(b) was inside his bedroom being beaten and punched by the officers, § 87(2)(b) and § 87(2)(b) stood in the hallway outside of his bedroom and watched. After about three minutes, the beating stopped because an officer, identified as Cpt. Jaime Ortiz, who was described as a portly white male with a bald head who appeared to be in his early 40s and who, based on the orders he issued to the other officers on the scene, appeared to be a boss, told the officers who were beating § 87(2)(b) "That's enough, relax."

§ 87(2)(b) and everybody else inside the home were arrested and charged with resisting arrest and possession of marijuana. § 87(2)(b) was transported to the 120th Precinct stationhouse and he was treated there by § 87(2)(b) EMS, and later transported to § 87(2)(b) the same day for treatment. § 87(2)(b) was bleeding from his upper lip and nose and stated that he had a bruised left eye and bruised left orbital bone.

Photo Viewing

§ 87(2)(b) appeared at the CCRB on March 28, 2014 and participated in a photo viewing (encl. b22-42). He was shown twenty photographs of officers consisting of officers on the tactical plan and fillers. § 87(2)(b) recognized the officers in the following photographs:

#3 (Det. Steven Sposito): § 87(2)(b) stated that this officer came into his bedroom during his physical altercation with officers. He also recognized him as one of the officers who took him to the hospital after the incident. § 87(2)(b) did not recall whether this officer had any physical interaction with him.

#8 (Det. James Malpeso): § 87(2)(b) recalled seeing this officer downstairs and asking him if he could get his shoes. The officer was wearing a gray hoodie at the time. He did not recall any physical interaction with this officer or whether he saw this officer upstairs.

#12 (Det. Michael Rivera): § 87(2)(b) believed he recognized this as an officer who came into the bedroom during the physical altercation carrying a police shield. This officer struck § 87(2)(b) with the shield during the altercation. The officer had a beard at the time of the incident. He was not one of the first officers who came in the room.

#17 (Det. Steven Marshall): § 87(2)(b) recognized this as an officer whom he saw at the stationhouse. § 87(2)(b) stated that this officer was "patronizing" toward him at the stationhouse. When § 87(2)(b) requested medical attention, this officer responded, "I'll get you medical attention, handsome." He recalled seeing this officer in his bedroom during the physical altercation but did not recall whether this officer made any physical contact with him.

#18 (PO Clyde Moyer): § 87(2)(b) recalled this as one of the officers who took him to the hospital. He recalled seeing this officer upstairs, possibly in the hallway, but not in his bedroom. He was informed later by his brother, § 87(2)(b) that an officer fitting this description had arrested § 87(2)(b). This officer later told § 87(2)(b) that he should have acted like his brother by not resisting. § 87(2)(b) noticed that this officer had the name "§ 87(2)(b)" tattooed on his arm, and was told that "§ 87(2)(b)" was the name of the officer's wife.

#20 (Det. Vincent Dicrescento): § 87(2)(b) stated that this officer looked very much like the officer whom he believed was a supervising officer. He believed this officer stood by during the physical altercation and told § 87(2)(b)'s friends to look at the wall. This officer stopped the physical altercation by telling the other officers, "Ease up." This officer asked § 87(2)(b) his age. When § 87(2)(b) replied that he was twenty, this officer stated that he had no sympathy for § 87(2)(b).

Witness: § 87(2)(b)

- A § 87(2)(b)

CCRB Statement

§ 87(2)(b) provided a statement to IAB on May 30, 2013 (encl. b47-48). He provided a telephone statement to the CCRB on January 13, 2014 (encl. b49) and was interviewed at the CCRB on April 1, 2014 in the presence of his attorney, § 87(2)(b) (encl. b50-52). His statements were consistent, with exceptions noted.

At 6:40 a.m. on May 29, 2013, § 87(2)(b) was upstairs in his bedroom § 87(2)(b) in Staten Island, where he resided with his friends § 87(2)(b) and § 87(2)(b) who are brothers, and their father, § 87(2)(b). § 87(2)(b) was downstairs on the first floor at the time. § 87(2)(b) was in his bedroom, which is the first bedroom on the left upon climbing the stairs to the second floor. § 87(2)(b)'s bedroom was the next room down the hallway. He was sleeping on his loft bed and his friend, § 87(2)(b) who was staying over that night, was sleeping on a futon beneath him. § 87(2)(b)

was in the next bedroom down the hall. Their friend, § 87(2)(b) § 87(2)(b) was staying in § 87(2)(b) s bedroom at the time.

§ 87(2)(b) and § 87(2)(b) both awoke to sounds of banging at the downstairs door and § 87(2)(b) heard police officers announcing their presence inside the residence. § 87(2)(b) descended the ladder from his bed. As he did so, an officer, PO1, who remains unidentified, described as a white male in plainclothes with light brown hair and a “boyish” face, who was about 5’9” and clean-cut, and in his early-30s or late-20s, opened the bedroom door and told § 87(2)(b) to come down. § 87(2)(b) complied and kept his hands raised. § 87(2)(b) and § 87(2)(b) were immediately handcuffed by PO1 without incident and were brought into the hallway outside of the bedroom. PO1 was by himself when he took § 87(2)(b) and § 87(2)(b) into the hallway.

Once in the hallway, § 87(2)(b) heard yelling, although he could not describe specifically what he heard. He looked to his right and was able to see inside of § 87(2)(b) s bedroom. § 87(2)(b) s bed was surrounded by police officers to the point where no part of § 87(2)(b) was visible. The head of § 87(2)(b) s bed was against the wall. § 87(2)(b) believed there were approximately eight officers inside the bedroom at this point—three along each side of the bed and two at the foot of the bed. § 87(2)(b) could not see the faces of any of the officers in § 87(2)(b) s bedroom—only their backs—and therefore could not describe them. Officers in the room were identified by the investigation as Det. Reich, Det. Fried, Det. Brenes, Det. Marshall and Sgt. Buckley. § 87(2)(b) observed “a lot of pushing and punching” by these officers, although he could not differentiate between the actions of particular officers in the room. He believed all of the officers were throwing punches or pushing, and they were all being “aggressive.” It appeared to § 87(2)(b) that the officers were trying to physically harm § 87(2)(b) rather than subdue him. He saw around ten punches in total being thrown. Because he could not actually see § 87(2)(b) could not determine where any punches may have landed. § 87(2)(b) believed, based on their positions near where § 87(2)(b) s head normally rests, that officers on the side of the bed closer to the door were throwing punches at § 87(2)(b) s face. He did not actually see punches landing on § 87(2)(b) Steart’s face. In his statement to IAB, § 87(2)(b) stated that he saw several police officers hit § 87(2)(b) with their fists in the face. Other officers in the room were “aggressively maneuvering.” The officers on the side of the bed farther from the door eventually got onto the bed in order to move § 87(2)(b) and handcuff him.

During the struggle, officers in the room were cursing at § 87(2)(b) telling him things like, “Get down, you scumbag.” § 87(2)(b) could not recall anything else said by the officers. He did not hear § 87(2)(b) saying anything. § 87(2)(b) could not see any part of § 87(2)(b) s body and therefore could not see whether he was resisting arrest. In his statement to IAB, § 87(2)(b) said that § 87(2)(b) was not putting his hands behind his back because he was trying to protect himself and he indicated that § 87(2)(b) was not trying to attack the officers. § 87(2)(b) did not see any handcuffs. He did not believe § 87(2)(b) was handcuffed at this time because based on the struggle it did not seem as if the officers had him handcuffed. In his telephone statement, § 87(2)(b) added that he did not see riot shields being used by officers in the room, although he was later told that some of the officers were using shields at the outset of the interaction with § 87(2)(b).

Toward the end of the approximately three minutes during which § 87(2)(b) observed the struggle, officers from downstairs would come up the stairs, enter the bedroom, throw one or two punches at § 87(2)(b) in order to “get their hits in,” and then leave. (In his telephone statement, § 87(2)(b) stated that two officers did this.) Later in his interview, § 87(2)(b) stated that he only saw one officer do this. He described this officer, PO2, as a heavy white male who was 5’10”-11” tall, wore glasses and had light hair in a buzz cut. When PO2 entered the bedroom, he went around the bed to the side farther from the

doorway. PO2 threw two or three punches at § 87(2)(b) did not see where PO2's punches landed. After he threw the punches, PO2 left the room. § 87(2)(b) believed that PO2 was one of the officers who had been hitting the front door when the officers entered the house because he later saw him downstairs with a sledge hammer.

Also in the hallway outside § 87(2)(b)'s bedroom during this time was PO3, an officer whom § 87(2)(b) believed was a supervisor based on his interactions with other officers. PO3, who remains unidentified, was a white male in his mid-40s who was heavyset and tall. § 87(2)(b) did not recall if PO3 got involved in the physical struggle with § 87(2)(b). The officer who had taken him from his bedroom, PO1, did not get involved in the physical struggle.

§ 87(2)(b) asked PO1 if he could do anything about what was happening to § 87(2)(b). PO1, who seemed to be the only officer concerned about what was happening, asked PO3 if he could do anything. PO3 then told § 87(2)(b) and § 87(2)(b) to turn around and face the wall and they complied. § 87(2)(b) had been looking into § 87(2)(b)'s bedroom for approximately three minutes. Because he turned away, § 87(2)(b) did not see how the officers' struggle with § 87(2)(b) concluded although he continued to hear noise coming from the room.

While § 87(2)(b) was facing the wall, other occupants of the second floor, including § 87(2)(b) were brought downstairs. Within five minutes after being instructed to face the wall, § 87(2)(b) and § 87(2)(b) were taken downstairs by PO1. PO3 remained on the second floor. § 87(2)(b) believed the struggle with § 87(2)(b) was ongoing at this point. Downstairs in the living room, § 87(2)(b) and § 87(2)(b) were placed on their knees. Also handcuffed in the living room at this time were § 87(2)(b)'s brother, § 87(2)(b) father, § 87(2)(b) and their friend, § 87(2)(b) § 87(2)(b). They were not told they could retrieve any clothing, although § 87(2)(b) was only wearing a tank top, shorts and slippers. After ten to fifteen minutes, § 87(2)(b) saw § 87(2)(b) being brought downstairs, along with about four officers. § 87(2)(b) noticed that there was bruising to § 87(2)(b)'s face and that one of § 87(2)(b)'s eyes was bloodshot.

§ 87(2)(b) noticed one of the officers who came downstairs at the same time as § 87(2)(b) whose knuckles were bleeding. This officer, identified in a photo viewing as Det. Reich, was around 5'7" tall and in his early-40s with a stocky build and dark features—olive skin with dark hair and eyebrows. Det. Reich wore a hoodie, jeans, and a jacket that said "Police" on it. § 87(2)(b) did not recall having seen Det. Reich in § 87(2)(b)'s bedroom. (In his statement to IAB, § 87(2)(b) indicated that he had seen Det. Reich in § 87(2)(b)'s bedroom during the physical struggle.) Det. Reich asked § 87(2)(b) "Is that your son?" § 87(2)(b) replied, "Yeah, why?" and Det. Reich stated, "because he's a real asshole." As Det. Reich said this, he gestured in a way that displayed his hand in a fist, knuckles facing toward § 87(2)(b). § 87(2)(b) interpreted this to mean that Det. Reich's injuries resulted from hitting § 87(2)(b). In his telephone statement, § 87(2)(b) stated that this officer told § 87(2)(b) that his son "deserves this," but did not mention the use of profanity. In his statement to IAB, he did mention the use of the word "asshole" by this officer.

§ 87(2)(b) said something in response to Det. Reich's comment, but § 87(2)(b) did not recall what. § 87(2)(b) was present in the living room when this comment was made and § 87(2)(b) believed he was close enough to hear it. During his time in the living room, after § 87(2)(b) had been brought down, § 87(2)(b) saw officers coming into the house's front door and going upstairs. He did not recall if he saw officers going upstairs before § 87(2)(b) was brought down.

After being held in the living room for ten minutes, § 87(2)(b) and the other occupants of the house

were brought outside and placed into a prisoner van. They were taken to the 120th Precinct stationhouse. It took approximately two hours to get to the stationhouse because three stops were made on the way—two in which additional arrests were made and one for coffee. When having their arrests processed at the stationhouse, § 87(2)(b) observed § 87(2)(b)'s injuries. § 87(2)(b) told § 87(2)(b) “They beat the shit out of me.”

§ 87(2)(b) and the other individuals arrested spent the rest of the day and that night in the stationhouse. § 87(2)(b) was placed in a cell with § 87(2)(b) was in a cell with § 87(2)(b) and § 87(2)(b) was in a cell with § 87(2)(b)

§ 87(2)(b)

§ 87(2)(b) stated that he may be able to recognize officers involved in the incident if shown their photographs. A photo viewing was conducted with § 87(2)(b) following his testimony.

Photo Viewing

Following his testimony on April 1, 2014, § 87(2)(b) participated in a photo viewing (encl. b53-b73). He recognized the following officers as being involved in the incident that occurred on May 29, 2013:

#18 (Filler): § 87(2)(b) believed that this was PO2 in his narrative, the officer who went into § 87(2)(b)'s room and whom he later saw holding a sledgehammer.

#19 (Det. Reich): § 87(2)(b) recognized this officer as PO4 in his narrative, the officer who referred to § 87(2)(b) as an “asshole” and whose knuckles were bleeding.

§ 87(2)(b) did not definitively recognize any other officers. However, he noted that a number of the photographs showed officers who looked familiar and may have been at the incident location, but to whom he could not attribute any particular actions. These officers were the ones depicted in Photographs 1 (Sgt. Dominick Capuano), 6 (Det. Cesar Brenes), 14 (Det. Raymond Wittick), 15 (Det. Marshall), and 20 (Filler).

Witness: § 87(2)(b)

Telephone Statement

On January 14, 2014, § 87(2)(b) provided a telephone statement to the CCRB (encl. b79) that was consistent with his statement to IAB on May 30, 2013 (encl. b77-78), with exceptions noted.

At 6:40 a.m. on May 29, 2013, § 87(2)(b) was staying at § 87(2)(b) in Staten Island when police officers executed a search warrant there. Also in the house at this time were his friends § 87(2)(b) and § 87(2)(b) § 87(2)(b)'s father, was in the basement apartment.

§ 87(2)(b) was sleeping on a futon in § 87(2)(b)'s room when he heard individuals breaking into the house and announcing themselves as police. § 87(2)(b) sat up on the futon, put his hands up and waited for someone to enter the room. Two white males in their 40s wearing NYPD windbreakers and shields around their necks (PO1-2) entered the room, placed § 87(2)(b) and § 87(2)(b) in handcuffs, then brought them into the hallway and placed them against the wall near § 87(2)(b)'s bedroom. Prior to being taken into the hallway, § 87(2)(b) heard a scuffle coming from § 87(2)(b)'s bedroom.

From where they stood in the hallway, § 87(2)(b) and § 87(2)(b) could see into § 87(2)(b)'s bedroom. § 87(2)(b) was lying on his bed facing up while four to six officers in raid gear (PO3-8) were in the room. § 87(2)(b) watched for 4-5 minutes as § 87(2)(b) was "beaten" by the officers. § 87(2)(b) whom § 87(2)(b) believed had been sleeping until this point, was guarding himself and his face because he was being hit. The officers in the bedroom claimed that he was resisting as they jumped on top of him and hit him multiple times in his face and stomach. Two officers had police shields and one of them hit § 87(2)(b) with the shield. This officer moved his forearm downward as he held the shield and struck the shield down against § 87(2)(b)'s chest area. In his statement to IAB, § 87(2)(b) said that § 87(2)(b) was struck twice with a shield, and that the officer who struck him then put down the shield and punched § 87(2)(b) 5-6 times. He added in his statement to IAB that a white male officer who was 6'0" tall with a buzz-cut struck § 87(2)(b) with a baton in the right ribs while officers were trying to place § 87(2)(b) in handcuffs. § 87(2)(b) also stated to IAB that § 87(2)(b) was not resisting the arrest, but was half-asleep and was only trying to protect his face from getting hit.

At one point, an officer (PO9) came up from downstairs. He screamed at § 87(2)(b) and § 87(2)(b) then walked into the bedroom, punched § 87(2)(b) in the face with a fist and then walked out and went back downstairs. PO9 was a chubby white male in his mid-30s who was about 5'7" tall and balding, wearing raid gear and a helmet. § 87(2)(b) stated he would recognize this officer in a photograph. § 87(2)(b) estimated that § 87(2)(b) was hit around 15 times. PO1 and PO2 did not participate in the force used against § 87(2)(b). During that time, PO1 and PO2 were holding onto § 87(2)(b) and § 87(2)(b) in the hallway and § 87(2)(b) believed they could see what was happening inside the bedroom. § 87(2)(b) told the officer holding onto him that the force had to stop. This officer agreed but said there was nothing he could do about it.

An officer who seemed to be a supervisor (possibly a captain), identified by the investigation as Lt. Ortiz, stood in the doorway between § 87(2)(b)'s bedroom and the hallway. Lt. Ortiz, who did not participate in the force used against § 87(2)(b) was a white male with brown hair and a thin moustache who did not have glasses and wore a white uniform shirt, blue pants and an NYPD jacket. In his statement to IAB, § 87(2)(b) added that there were also two female officers present.

After PO9 hit § 87(2)(b) in the mouth, Lt. Ortiz told § 87(2)(b) and § 87(2)(b) to turn their heads around so they would not see what was happening to § 87(2)(b). They both complied and turned their heads around, after which they were taken downstairs behind PO9. § 87(2)(b) believed the altercation with § 87(2)(b) then stopped, because § 87(2)(b) was brought downstairs in handcuffs a minute after him and § 87(2)(b)'s face was swollen. § 87(2)(b) was later informed by § 87(2)(b) and § 87(2)(b)'s mother that the doctors informed them that if he had sustained a few more hits, § 87(2)(b) would have suffered a broken eye socket.

Please-call letters were sent to § 87(2)(b) on July 13, 2013 and January 9, 2014. A voicemail message was left for him on January 13, 2014. Following his telephone statement on January 14, 2014, § 87(2)(b) scheduled an interview for January 21, 2014. That day, he called to reschedule and stated that he would call the following day to schedule an interview for January 23, 2014. § 87(2)(b) failed to call back and a voicemail message was left for him on January 23, 2014. A final please-call letter was sent to him on January 27, 2014. Neither letter was returned as undeliverable. To date, § 87(2)(b) has not contacted the CCRB to provide an in-person statement.

Witness: § 87(2)(b)

Telephone Statement

On April 30, 2014, § 87(2)(b) provided a telephone statement to the CCRB (encl. b81).

At 6:40 a.m. on May 29, 2013, § 87(2)(b) was in the downstairs living room of § 87(2)(b) in Staten Island when he heard a booming sound at the door. He walked over to the door as the door was broken in. § 87(2)(b) was "accosted" and thrown to the floor by the first few individuals who entered the door (about three of them), whom he later learned were police officers. All of the officers who entered at this point were portly white males and some of them held guns. Officers asked § 87(2)(b) who was upstairs and he replied that his kids were upstairs. Some officers then ran upstairs while others stayed with § 87(2)(b) and handcuffed his arms behind his back.

§ 87(2)(b) heard commotion coming from upstairs and heard his son, § 87(2)(b) crying, so he tried to get up to see what was happening, but he was tackled and again thrown to the floor. One of the officers who did this was also one of the officers who entered the door and threw § 87(2)(b) to the floor the first time. From being thrown to the floor (he did not recall which time), § 87(2)(b) injured his meniscus. § 87(2)(b) indicated that officers threatened to shoot him. When asked what specifically was said by the officers, he stated that the officers repeatedly told him, "Don't move" while their guns were drawn.

§ 87(2)(b)'s sons were brought downstairs along with two other teenagers who had been staying there. § 87(2)(b) had swelling to the side of his face and one of his eyes was red. § 87(2)(b) did not see how these injuries were sustained. § 87(2)(b) told police officers that he hoped they would take responsibility for hitting § 87(2)(b). An officer, identified by the CCRB as Det. Reich, asked § 87(2)(b) if § 87(2)(b) was his son and § 87(2)(b) stated that he was. Det. Reich said, "Yo, your son's got a tough head. Look at him, he bruised up my knuckles." Det. Reich presented his fist several inches in front of § 87(2)(b)'s face and § 87(2)(b) saw that Det. Reich's knuckles were bruised as if he had been in a fight. Det. Reich was described as a portly white male in his 30s who had a tattoo (unable to describe) on his forearm and black hair. § 87(2)(b) tried to look at Det. Reich's badge and the badges of other officers, but when the officers saw § 87(2)(b) looking, they whispered and placed their badges inside their shirts.

Among the officers who came downstairs were a Hispanic male and a Hispanic female. The Hispanic female officer overheard § 87(2)(b) talking to the other officers about § 87(2)(b). She approached § 87(2)(b) and told him that she did not take any part in what happened to § 87(2)(b) upstairs. The Hispanic male officer searched the downstairs part of the house and took items, including DVDs and pen-knives. § 87(2)(b) was not given any vouchers for the property that was taken. This officer was a Hispanic male with a dark complexion and a muscular build. He did not have facial hair and had medium-length hair. He was not one of the first officers who entered the door and § 87(2)(b) noticed him later.

Following his telephone statement, § 87(2)(b) was informed that an in-person statement was needed in order for his allegations of force to be investigated. He stated that when he returned to New York, he would consult with his attorney in regard to providing an in-person statement to the CCRB. To date, § 87(2)(b) has not contacted the CCRB to schedule an interview.

NYPD Statement(s):

Subject Officer: DET. MATHEW REICH

- *A white male who is § 87(2)(b) at the time of the incident.*
- *On May 29, 2013, Det. Reich worked from 4:27 a.m. to 1:00 p.m. assigned to search warrant execution with a field team from Narcotics Borough Staten Island. He was in plainclothes and was assigned to an unmarked vehicle.*

Memo Book

Det. Reich's memo book contained the following entries regarding the incident: 6:40 a.m., Search warrant executed at § 87(2)(b) Bunker. 7 under arrest. (encl. c1-3)

CCRB Statement

Det. Matthew Reich was interviewed at the CCRB on March 13, 2014 (encl. c4-6).

At 6:40 a.m. on May 29, 2014, Det. Reich carried a bunker security shield and was the first bunker officer through the front door of § 87(2)(b) during the execution of a search warrant. A second entry point was around the back of the house, where other officers entered. Det. Reich recalled Det. Fried, Det. Brenes and Sgt. Buckley being assigned to the front door entry with him. Det. Reich believed Det. Marshall was present during the search warrant but was not certain. He stated Cpt. D'Orazio was somewhere at the location but did not know at which entry point. Upon entry into the front door, Det. Reich looked to his left and saw at least one individual on the couch, identified by the investigation as § 87(2)(b). Det. Reich saw no weapons, so he proceeded upstairs while officers who had entered behind him (he did not recall which) went to handcuff § 87(2)(b). Det. Reich went upstairs to the second floor. Once on the second floor, Det. Reich saw PO Moyer pass by him and go toward one of the bedrooms. He did not recall if PO Moyer was alone or with other officers. Det. Reich and Det. Fried turned toward the first bedroom on the left. Det. Reich observed § 87(2)(b) lying face up on a bed in the center of the room. § 87(2)(b) was the first civilian Det. Reich observed on the second floor. As Det. Reich faced the foot of the bed, § 87(2)(b) was staring directly at Det. Reich and Det. Reich could not see his hands, which he believed were under the covers. Det. Reich did not want to enter the bedroom until he could see § 87(2)(b)'s hands.

While holding the bunker shield, Det. Reich said to § 87(2)(b) "Police, let me see your hands." At no point did he refer to § 87(2)(b) as an "asshole" or hear any officer do so. He heard no profanities being used toward § 87(2)(b). After Det. Reich's order, § 87(2)(b) took his covers in both hands and pulled them over his head. Det. Reich could see § 87(2)(b)'s fingertips as he held the covers and determined that he did not have a weapon. Det. Reich entered the bedroom and called for assistance from additional officers. Det. Fried then entered the bedroom on Det. Reich's left, and Det. Brenes entered on his right. Det. Reich approached the foot of the bed as the officers went to handcuff § 87(2)(b). Det. Reich put down his bunker shield, grabbed the covers and pulled them off § 87(2)(b). Det. Reich did not believe that he used the bunker shield to make any physical contact with § 87(2)(b). He did not strike § 87(2)(b) with the shield. Det. Reich stated that he was taught in training that the shield can be used to restrain people or to strike people who are fighting. However, because there seemed to be enough officers in § 87(2)(b)'s bedroom at this point to attempt to restrain him, Det. Reich did not need to use the shield in this way.

Det. Reich did not recall which officer was the first to make physical contact with § 87(2)(b). After Det. Reich removed the covers, § 87(2)(b) put his hands up in fists “to fight.” Det. Reich did not recall if § 87(2)(b) sat or stood up. Det. Reich, Det. Fried and Det. Brenes “jumped on top” of § 87(2)(b) and attempted to grab his arms in order to prevent him from fighting and to handcuff him. Det. Reich got onto the bed, to the side of § 87(2)(b). As the officers tried to grab § 87(2)(b)’s arms, he fought them while still lying on the bed. Det. Reich described him as being “in a rage,” swinging his arms and kicking his legs. He struck Det. Reich with a fist, although Det. Reich did not recall where he was struck. After being struck, Det. Reich struck § 87(2)(b) several times. He did not recall where he struck § 87(2)(b) but believed it may have been in his stomach, side or legs because at the time he was positioned near § 87(2)(b)’s lower body. He stated that he was not positioned high enough to punch § 87(2)(b) in his face or head. He denied making any contact with § 87(2)(b)’s head or face. Det. Reich did not observe Det. Fried or Det. Brenes throw punches and did not see them make contact with § 87(2)(b)’s head or face. He did not see any officer make contact with § 87(2)(b)’s neck or place him in a chokehold or headlock. Det. Reich stated that there was no way an officer would have been able to get behind § 87(2)(b) in order to place him in such a hold based on the way he was positioned on the bed, and that by the time he was faced down and officers could get behind him, he was already being handcuffed. Officers repeatedly ordered § 87(2)(b) to provide his hands, but he did not comply. Det. Reich believed § 87(2)(b) was under the influence of drugs at the time because the room smelled like PCP—which Det. Reich recognized based on his experience and training—and based on § 87(2)(b)’s blank expression during the struggle. § 87(2)(b) was not making any statements at the time. Det. Reich did not recall observing any drugs in the room.

During the struggle, Det. Reich called for assistance from additional officers. Sgt. Buckley came in the room and assisted. Det. Reich did not recall if Det. Marshall came in the room and did not recall who else came in with Sgt. Buckley. The officers who entered the room at that point attempted to grab § 87(2)(b)’s legs so he could not kick. Det. Reich later learned that Sgt. Buckley was kicked in the leg by § 87(2)(b) and went Line of Duty. Eventually, the officers were able to handcuff § 87(2)(b)’s hands behind his back. Det. Reich could not estimate how much time had elapsed since the struggle began, but guessed that it may have been about five minutes. PO Moyer did not assist with § 87(2)(b)’s apprehension because he was dealing with the apprehension of another civilian in the bedroom he had entered.

Once § 87(2)(b) was in handcuffs, he continued to resist by pulling away from the officers and being very confrontational. Det. Reich did not recall who took § 87(2)(b) out of the bedroom. He believed § 87(2)(b) was taken out of the room immediately after being handcuffed. No force was needed to restrain § 87(2)(b) after he was handcuffed. Det. Reich did not see any punches being thrown at § 87(2)(b) after he was handcuffed. He denied that § 87(2)(b) was kept in the room after being handcuffed as officers came in and used force against him.

Det. Reich was shown § 87(2)(b)’s arrest photograph, in which § 87(2)(b) has visible bruising to his left cheekbone. Det. Reich did not see anything happen during the struggle that would have resulted in such an injury. He did not see § 87(2)(b)’s face come in contact with any surface. He did not see this injury to § 87(2)(b)’s face at the time of the incident and did not hear § 87(2)(b) complain of injury.

At the time § 87(2)(b) was brought downstairs, Det. Reich did not recall where the other residents of the house were. He did not see any of the other residents in the hallway upstairs or outside § 87(2)(b)’s bedroom. At 11:30 a.m., after executing additional search warrants, Det. Reich went to the

120th Precinct stationhouse. He did not recall interacting with § 87(2)(b) there. He did not recall being at the stationhouse when EMS arrived.

Subject Officer: DET. MATTHEW FRIED

- A § 87(2)(b) at the time of the incident.
- On May 29, 2013, Det. Fried worked from 4:27 a.m. to 1:00 p.m. assigned to a search warrant execution team and partnered with Det. Reich. He was in plainclothes and wore an NYPD vest, and was assigned to an unmarked vehicle. Since the incident, Det. Fried has been promoted to the rank of sergeant.

Memo Book

Det. Fried's memo book contained the following entries regarding the incident: 6:40 a.m., Search warrant at § 87(2)(b) assignment: bunker security; 7 under. (encl. c8-9)

CCRB Statement

Det. Fried was interviewed at the CCRB on February 18, 2014 (encl. c10-13) His statement was consistent with that of Det. Reich, with the following additional information:

Det. Fried, who was part of a bunker team along with Det. Reich, entered the front door behind Det. Reich. Det. Fried did not know which officers entered the front door behind him and Det. Reich, or how many there were, but stated that these officers would be among those listed as "C/T" [Cuff and Toss] on the Tactical Plan. Det. Fried stated that § 87(2)(b) whom he observed lying on a sofa in the living room, refused to show his hands or comply with orders to get off the sofa given by Det. Fried and Det. Reich. He held his arms against his body, so Det. Fried and other officers (he could not recall which) pulled his arms behind his back and placed him in handcuffs. Det. Fried did not see Det. Reich's shield make contact with § 87(2)(b) and did not recall if Det. Reich assisted in handcuffing him. No force was used other than pulling his hands behind his back, and his apprehension took approximately 30 seconds to a minute.

Det. Fried then followed Det. Reich as they went up to the second floor. Det. Fried did not recall if he and Det. Reich were the first two officers to go upstairs. When they approached § 87(2)(b)'s bedroom, Det. Fried saw § 87(2)(b) sitting up with blankets and sheets pulled up to his face, concealing his body and his hands. Det. Fried and Det. Reich gave orders for § 87(2)(b) to show his hands, but he did not comply and did not respond at all. Det. Fried did not say, "Get on your knees, asshole." He did not use any profanity and did not hear any officer do so. After several orders, Det. Fried entered the room and pulled the blankets away from § 87(2)(b) so he could see his hands and body and ensure that he was not concealing any weapons. Once Det. Fried pulled the blankets away, § 87(2)(b) began to violently resist by swinging his arms, thrashing, kicking and punching while still in a sitting position. Det. Fried did not believe that he was struck by § 87(2)(b)'s punches or kicks and did not recall seeing any other officer being struck by him. Det. Fried did not know if he was the first officer to make contact with § 87(2)(b) or if he did so at the same time as another officer, because he was focused on neutralizing the threat he perceived. Det. Fried did not see Det. Reich's shield make contact with § 87(2)(b). He did not see any officer strike § 87(2)(b) with a police shield, but stated that officers are trained to use the shield to strike people who are violently resisting and to place such people against immobile objects. Det. Fried did not see this happen to § 87(2)(b) but stated that § 87(2)(b) was resisting in a way that would have warranted such force.

Det. Fried and Det. Reich applied “firm grips” to § 87(2)(b) in order to place him into custody. They seized his arms and tried to place them behind his back and engaged in what Det. Fried described as a “wrestling match” on the bed. Because the bedroom was very small and the bed was in the center of the room, there was very little room to maneuver without falling onto the bed. § 87(2)(b) who was sweating profusely, continued to resist as Det. Fried and Det. Reich attempted to pull his arms behind his back, and they unable to control him. At some point (Det. Fried did not recall when but stated that it was before § 87(2)(b) was placed in handcuffs), Det. Brenes came into the bedroom to assist in apprehending § 87(2)(b). Det. Brenes joined in the wrestling match and attempted to prevent Det. Fried and Det. Reich from being injured as they tried to effect § 87(2)(b)'s arrest. It took almost five minutes to restrain § 87(2)(b) and § 87(2)(b) resisted the entire time. The officers were mostly at § 87(2)(b)'s sides and were not in one position for the duration of the struggle, as the group was constantly moving on the bed. Det. Fried did not believe they were on top of § 87(2)(b) because this would have been a position of advantage that they did not have.

Det. Fried stated that in his opinion, punches could have constituted the minimum amount of force necessary to overcome § 87(2)(b)'s resistance given the type of force he was using. However, to Det. Fried's knowledge, no strikes were thrown at § 87(2)(b) to get him under control. Det. Fried stated first that he did not think he punched § 87(2)(b) then clarified that he did not have an independent recollection of punching § 87(2)(b). He did not see any other officer punch § 87(2)(b) or make contact with his face at any point. Det. Fried did not grab § 87(2)(b)'s neck at any point or place him in a chokehold or headlock. He did not see any officer do so. Eventually, Det. Fried and Det. Reich were able to handcuff his hands behind his back. Det. Fried did not recall what position § 87(2)(b) was in at this point, or if he was faced up or down. Det. Fried did not recall which officer secured the handcuffs or whose handcuffs they were. Once handcuffed, § 87(2)(b) continued writhing, kicking his legs and thrashing his head. Det. Fried did not recall § 87(2)(b) saying anything. He did not believe any officers besides Det. Brenes came into the bedroom to assist him and Det. Reich during the struggle. No additional force was used against § 87(2)(b) in Det. Fried's presence after § 87(2)(b) was placed in handcuffs.

Once § 87(2)(b) was restrained, Det. Fried exited the bedroom. He did not recall any officers leaving the bedroom with him. § 87(2)(b) was still in the bedroom when Det. Fried exited. Det. Fried did not recall which officers remained in the bedroom with § 87(2)(b). He did not recall seeing any civilians in the hallway. Upon exiting the bedroom, Det. Fried was informed (he did not recall by whom) that the rest of the location had been secured. He walked downstairs, went outside of the house's front door to catch his breath, and took off his heavy vest. Det. Fried did not believe that he went back upstairs after this point. Other members of the field team were outside at this point, although Det. Fried did not recall who. Det. Fried did not see any officers who were downstairs at this point go upstairs.

Det. Fried saw § 87(2)(b) again approximately 5-10 minutes later when he was being placed into the prisoner van. Det. Fried did not recall who placed Det. Fried into the prisoner van. Det. Fried did not see any injuries to § 87(2)(b) and did not hear him complain of injuries. He did not recall seeing § 87(2)(b) resist as he was being placed in the prisoner van. Det. Fried was shown § 87(2)(b)'s arrest photograph. He did not specifically recognize § 87(2)(b) or any of the individuals in the arrest photographs shown to him as the individual with whom he struggled in the bedroom. He did not see anything happen to § 87(2)(b) that would have resulted in the injuries visible in the arrest photograph.

Subject Officer: SGT. CORNELIUS BUCKLEY

- A § 87(2)(b) at the time of the incident.
- On May 29, 2014, Sgt. Buckley worked from 4:45 a.m. to 4:35 p.m. assigned as the supervisor assisting teams with search warrants in Narcotics Borough Staten Island. He was in plainclothes with a raid jacket and was assigned to an unmarked RMP# 47113 with Det. Malpeso.

Memo Book

Sgt. Buckley's memo book contained the following entries regarding the incident: 6:40 a.m., Search warrant executed at § 87(2)(b) 7 under arrest for criminal sale of a controlled substance/unlawful possession of marijuana/resisting. Line of Duty injury received after male perpetrator on second floor, front bedroom resists arrest and kicks me in my left knee, left wrist, upper torso, right shoulder area. Arresting officer Det. O'Brien, under supervision of Lt. Ortiz; 9:30 a.m., premises secured, contraband seized. A/O O'Brien; 10:00 a.m., At the 120 Precinct; 10:40 a.m., En route to § 87(2)(b) in regard to Line of Duty injury; 1:00 p.m., Returned to command after medical treatment. (encl. c27-29)

CCRB Statement

Sgt. Cornelius Buckley was interviewed at the CCRB on March 7, 2014 (encl. c30-32). His statement was consistent with those of Det. Reich and Det. Fried, with the following additional information:

Sgt. Buckley stated that from the rear basement apartment of § 87(2)(b) there was no direct access to the rest of the house without going outside. Sgt. Buckley recalled being assigned to the front door entry with Det. Reich, Det. Fried, Det. Brenes, Det. Marshall, Lt. Ortiz and Cpt. Norman Miller. (Sgt. Buckley did not recall seeing Cpt. Miller inside of the location during the incident.) He believed Sgt. Capuano and Cpt. D'Orazio were assigned to the rear basement entry.

In the living room, an officer (possibly Det. Reich or Det. Marshall) handcuffed § 87(2)(b) as he resisted arrest. He did not physically assist in this arrest. Sgt. Buckley waited until § 87(2)(b) was handcuffed, at which point he heard officers upstairs calling for assistance. The detective who handcuffed § 87(2)(b) went upstairs, so Sgt. Buckley had to wait until he could get another officer to stay with § 87(2)(b). About ten seconds later, Sgt. Buckley got an officer (a female officer, possibly Det. Meigs) to stay with § 87(2)(b) then ran upstairs and went to the front bedroom from which the noise was coming as officers continued to call for assistance. On the way there, he briefly saw civilians in a back bedroom. He believed PO Moyer and Lt. Ortiz apprehended those civilians.

In the front bedroom, Sgt. Buckley saw Det. Reich, Det. Fried and Det. Brenes struggling with § 87(2)(b) while trying to place him in handcuffs on a bed in the middle of the room. Sgt. Buckley entered the bedroom and he believed Det. Marshall entered the room around the same time. The foot of the bed faced the entrance to the bedroom. § 87(2)(b) was on his side, on top of Det. Brenes while Det. Brenes struggled to get his hands. § 87(2)(b) was punching and kicking "wildly," and trying to get off the bed. Sgt. Buckley did not know if any of the punches landed. Det. Brenes managed to turn § 87(2)(b) so that § 87(2)(b) was facing up. Det. Brenes was able periodically to get his hands around § 87(2)(b)'s arms, but § 87(2)(b) kept his arms in front of him and continued to break free and throw punches indiscriminately. Det. Reich and Det. Fried were on the left side of the bed, by § 87(2)(b).

§ 87(2)(b)'s torso, trying to grab his arms and flip him over onto his stomach so they could get his arms behind his back. Det. Reich was not holding a bunker shield at this point. Sgt. Buckley went around to the right side of the bed, where there was more free space. He believed Det. Marshall also came to that side of the bed and stood closer to § 87(2)(b)'s torso. As the detectives began to gain control of his arms and Sgt. Buckley attempted to restrain his legs, § 87(2)(b) increased the intensity of his kicking. Sgt. Buckley was kicked several times in his left knee, torso, left wrist. As a result, he sustained injuries for which he later received treatment. Sgt. Buckley did not observe any officer throw punches or strikes at § 87(2)(b) at any point. He did not see any force being used other than officers attempting to grab § 87(2)(b)'s hands and stop him from kicking. Sgt. Buckley did not throw any punches at § 87(2)(b). He did not see any officer strike § 87(2)(b) with a bunker shield. Sgt. Buckley did not observe a chokehold or headlock being used against § 87(2)(b).

Eventually, the officers were able to place § 87(2)(b) in handcuffs while he was on the bed. About a minute had elapsed since Sgt. Buckley had entered the bedroom. At some point toward the end of the struggle (Sgt. Buckley did not recall if it was before or after § 87(2)(b) was handcuffed), Lt. Jaime Ortiz entered the front bedroom, although Sgt. Buckley did not recall what he did. Lt. Ortiz did not assist physically in the apprehension. Following the struggle, § 87(2)(b) yelled obscenities and called the officers "motherfuckers." Sgt. Buckley did not hear any officer call § 87(2)(b) an "asshole" or use profanities toward him. Sgt. Buckley did not recall any officers besides those mentioned entering § 87(2)(b)'s bedroom, including those officers assigned to the basement entry. He stated that the basement entry took longer than the front door entry due to problems with the basement door.

§ 87(2)(b) was taken out of the bedroom "fairly quickly" after being handcuffed. Sgt. Buckley remained in the bedroom because of his injuries. Sgt. Buckley denied that any force was used against § 87(2)(b) after he was handcuffed. § 87(2)(b) put up some physical resistance after being handcuffed because he was angry and did not want to walk downstairs to the prisoner van, but he was mostly compliant. When Sgt. Buckley went downstairs several minutes later, he saw the prisoners lined up by the prisoner van. He did not see any civilians still on the second floor when he exited the bedroom. He did not recall other residents of the house standing in the hallway and watching during the struggle with § 87(2)(b).

Subject Officer: DET. CESAR BRENES

- A § 87(2)(b), Det. Brenes was § 87(2)(b) at the time of the incident.
- On May 29, 2013, Det. Brenes worked from 5:00 a.m. to 1:00 p.m. assigned to search warrant execution with a field team from Narcotics Borough Staten Island. He was in plainclothes with a raid jacket and was assigned to unmarked vehicle number 47343 with Det. Sanchez.

Memo Book

Det. Brenes' memo book contained the following entries regarding the incident: 6:40 a.m., § 87(2)(b) executing search warrant. (encl. c15-16)

CCRB Statement

Det. Brenes was interviewed at the CCRB on March 5, 2014 (encl. c17-19). His statement was consistent with those of Det. Reich and Det. Fried, with the following additional information:

Det. Brenes entered the first floor behind Det. Reich and Det. Fried. Another entry team, which included Sgt. Capuano, Det. Ryan, Det. Rivera, Det. Sanchez, Det. Malpeso, Det. Wittick and Det. McNamee, was assigned to enter a basement apartment at the same location. Det. Brenes did not recall Cpt. D'Orazio

entering the location. He did not recall what Det. Centeno, Det. Meigs, Det. O'Brien, Det. Sposito or Det. Banghart did. He believed Det. Dicrescento stayed with Cpt. D'Orazio because he was the captain's operator.

Immediately upon entering, Det. Brenes went upstairs to the second floor behind the bunker team. He did not encounter any civilians on the first floor before going up. He did not believe any officers came up the stairs behind him at this point. Det. Reich, Det. Fried and Det. Brenes entered the first bedroom on the left upon going up the stairs. In the bedroom, Det. Brenes saw § 87(2)(b) lying on a bed, on his back. The officers entered the room and an officer, likely Det. Reich, ordered § 87(2)(b) to show his hands. Det. Brenes did not hear any officer call § 87(2)(b) an "asshole" or use profanities. Det. Brenes could see § 87(2)(b)'s hands at this point, as he was holding onto his blankets. However, upon being ordered to show his hands, § 87(2)(b) went under the blankets, pulling them up over his head. While Det. Brenes stayed back, Det. Reich and Det. Fried approached § 87(2)(b) at the same time and each went to one side of the bed. They stood near the middle or top half of § 87(2)(b)'s body. Either Det. Reich or Det. Fried pulled the blankets off him to see his hands and to see if he had any weapons. Det. Brenes believed Det. Reich approached § 87(2)(b) while still holding the bunker shield, then dropped it once the blankets were removed. He stated that although it was possible, he did not see Det. Reich's shield make contact with § 87(2)(b). Detectives are taught to use their shields not to strike, but to control. Det. Brenes did not observe Det. Reich strike § 87(2)(b) with the shield. When the blankets were removed, § 87(2)(b) "went crazy" and started kicking and punching Det. Reich and Det. Fried. His punches and kicks made contact with the detectives. § 87(2)(b) was not saying anything at the time. Det. Reich and Det. Fried engaged § 87(2)(b) by grabbing his hands, blocking his punches and throwing punches. Det. Brenes stated that at one point, "everyone was throwing punches," although he could not estimate how many punches were thrown. The punches thrown by Det. Reich and Det. Fried made contact with § 87(2)(b) although Det. Brenes did not know where on his body. He did not recall if any of their punches made contact with § 87(2)(b)'s face.

As soon as the struggle began, while punches were still being thrown, Det. Brenes went to the right side of the bed and engaged § 87(2)(b) by grabbing him around his waist. Det. Brenes ended up on the bed, wrestling with § 87(2)(b) while underneath him. He wrapped his legs around § 87(2)(b) trying to prevent him from punching and kicking. However, he was not able to control § 87(2)(b) who continued to throw punches and kicks. Det. Brenes did not throw any punches at § 87(2)(b). At the same time, Det. Reich and Det. Fried were on top of § 87(2)(b) while trying to handcuff him. They were not able to do so. Det. Brenes was not struck by § 87(2)(b). Det. Brenes did not make contact with § 87(2)(b)'s neck and he did not see any officer do so. He did not place § 87(2)(b) in a chokehold or see any officer do so. He did not hear § 87(2)(b) complain at any point that he could not breathe. During the struggle, Det. Brenes' glasses fell off his face.

Either Det. Reich or Det. Fried (Det. Brenes did not recall which) yelled out that they needed help, and Sgt. Buckley came into the room. Sgt. Buckley took control of the situation, grabbing § 87(2)(b) instructing officers where and how to grab § 87(2)(b). With Sgt. Buckley's assistance, the officers were then able to place § 87(2)(b) in handcuffs. Det. Brenes did not recall Sgt. Buckley throwing any punches. § 87(2)(b)'s hands were placed in handcuffs one at a time, and two officers had to hold each arm while this happened. § 87(2)(b) tightened up and tried to get away from the officers. At some point, all of the officers were on the bed. § 87(2)(b) did not stop resisting until after he was placed in handcuffs. The struggle lasted no more than two minutes. Additional officers entered the bedroom during the struggle, although Det. Brenes could not recall who. An officer (he did not recall who) handed Det. Brenes his glasses.

No officer threw any punches at § 87(2)(b) after he was handcuffed. Det. Brenes believed § 87(2)(b) was under the influence of drugs because he looked “out of it,” dazed and unresponsive. He did not make any statements. Det. Brenes noticed that § 87(2)(b)'s face was red. Det. Brenes was shown § 87(2)(b)'s arrest photograph and stated he did not recall seeing the bruise noticeable in the photograph at the time of the incident. Once § 87(2)(b) was handcuffed, he was immediately taken downstairs to the prisoner van. Det. Brenes, who was exhausted from the struggle, did not escort § 87(2)(b) downstairs and did not recall who did so.

Det. Brenes did not know if the rest of the arrestees had been brought downstairs by the time § 87(2)(b) was handcuffed. He did not recall seeing any of them standing outside of § 87(2)(b)'s room or seeing any civilians besides § 87(2)(b) on the second floor. Det. Brenes went outside to get air and saw the prisoners being brought out of the house and to the prisoner van. Det. Brenes later learned that during the struggle, Sgt. Buckley was kicked by § 87(2)(b) and went to the hospital for injuries he sustained.

Subject Officer: DET. STEVEN MARSHALL

- A § 87(2)(b), Det. Marshall was § 87(2)(b) at the time of the incident.
- On May 29, 2013, Det. Marshall worked from 4:27 a.m. to 1:00 p.m. assigned to Narcotics Borough Staten Island, executing search warrants with Lt. Ortiz. He was in plainclothes with a raid jacket and was assigned to an unmarked vehicle.

Memo Book

Det. Marshall's memo book contained the following entries regarding the incident: 6:40 a.m., Executed search warrant at § 87(2)(b) Five under arrest; 9:00 a.m., At 120th Precinct stationhouse for arrest processing. (encl. c21-22)

Line of Duty Injury Witness Statement

Det. Marshall's witness statement regarding Sgt. Buckley's injury notes, "On May 29, 2013, at approximately 6:40 a.m., at § 87(2)(b) while executing a search warrant I observed Sgt. Buckley being kicked in the knee, wrist and shoulder by a perpetrator who was resisting arrest. The sergeant was removed to the hospital where he was treated and released." (encl. d14)

CCRB Statement

Det. Steven Marshall was interviewed at the CCRB on March 11, 2014 (encl. c23-25) His statement was consistent with that of Det. Brenes, with the following additional information:

Det. Marshall, who was added to the team late (explaining his absence from the Tactical Plan) recalled that Lt. Ortiz was also assigned to the main floor entry. He heard an officer upstairs (either Det. Reich or Det. Fried) calling for assistance as soon as he entered the house and went immediately upstairs without doing anything on the first floor or effecting any arrests. Det. Marshall did not recall if he went upstairs alone or with anyone else. Lt. Ortiz remained downstairs and did not go up with him.

Once upstairs, Det. Marshall entered the first bedroom on the left and saw § 87(2)(b) standing on a bed while fighting with Det. Reich, Det. Fried, Det. Brenes and Sgt. Buckley. The officers were surrounding § 87(2)(b) leaning over the bed and attempting to get his hands and legs, but he repeatedly threw punches and kicks. Det. Marshall saw Sgt. Buckley being kicked somewhere below his torso by § 87(2)(b). No officer threw any punches at § 87(2)(b). No officer made contact with § 87(2)(b)'s neck or placed him in a chokehold or headlock. Det. Marshall did not believe Det. Reich

was holding the bunker shield at this point. He did not see any officer strike § 87(2)(b) with a shield. Det. Marshall did not refer to § 87(2)(b) as an “asshole” and did not hear any officer do so.

Det. Marshall approached, leaned over the bed and assisted by trying to grab § 87(2)(b) s arms from behind to get them behind his back and handcuff him. § 87(2)(b) continued to throw punches and kicks. Det. Marshall was not struck. Orders were being given to § 87(2)(b) to get on the ground (Det. Marshall did not recall who gave the orders), but § 87(2)(b) did not comply. Det. Marshall did not throw any punches at § 87(2)(b) s head or face and did not see any officer do so. § 87(2)(b) did not make any statements during the struggle and did not complain that he could not breathe.

Eventually, § 87(2)(b) was brought down onto the bed, although Det. Marshall did not recall who brought him down or if he was faced up or down. After more than two minutes since Det. Marshall had come into the room, he and the other officers were able to successfully handcuff § 87(2)(b) by pulling his arms behind his back. § 87(2)(b) became compliant once he was in handcuffs. No force was used against § 87(2)(b) after he was handcuffed. No officers other than those mentioned came in the room to assist with § 87(2)(b) s apprehension. Det. Marshall did not recall seeing Lt. Ortiz upstairs during the struggle, but saw him go up later, during the search of the house. Immediately after § 87(2)(b) § 87(2)(b) was handcuffed, he was brought downstairs, although Det. Marshall did not recall by whom. § 87(2)(b) did not make any statements as he was taken downstairs. Det. Marshall did not notice any injuries to § 87(2)(b) Det. Marshall was shown § 87(2)(b) s arrest photograph. He did not see anything happen during the incident that would have resulted in the injury shown in the photograph. He did not see any officer make contact with § 87(2)(b) s face and he did not do so.

Det. Marshall stayed in the bedroom for several minutes to check on Sgt. Buckley. He did not see any additional officers or civilians on the second floor. He believed other officers were upstairs to apprehend civilians in other bedrooms, but he did not know who. Det. Marshall went downstairs and saw additional prisoners in the living room. They had all been apprehended by this point. Det. Marshall did not assist with the arrest of any civilian aside from § 87(2)(b) He did not see § 87(2)(b) being brought to the prisoner van. He believed he escorted a prisoner to the prisoner van, but did not recall who.

Witness Officer: PO CLYDE MOYER

- *A white male who § 87(2)(b), PO Moyer was § 87(2)(b) old at the time of the incident.*
- *On May 29, 2013, PO Moyer worked from 4:27 a.m. to 1:00 p.m. assigned to Cuff & Toss during search warrant executions with a tactical response team in Narcotics Borough Staten Island. PO Moyer’s partner was Det. Meigs, he was in plainclothes and was assigned to an unmarked vehicle.*

Memo Book

PO Moyer’s memo book contained the following entries regarding the incident: 4:27 a.m., Assist search warrant with the wire team; 5:10 a.m., On patrol with Det. Meigs in rental auto 47263, black Mazda, me as operator; 12:50 p.m., Returned to command; 4:40 p.m., Assigned to hospitalized perpetrator with Det. Sposito, Prisoner van 47447 – Black Ford, operator. Perpetrator Amiel [sic] § 87(2)(b) 7:10 p.m., Returned to command. (encl. c34-36)

CCRB Statement

PO Moyer was interviewed at the CCRB on February 19, 2014 (encl. c37-39)

PO Moyer was part of the front door entry along with Det. Reich, Det. Fried and Det. Sanchez. He did not recall who else on the tactical plan was assigned to the front door and who was assigned to the basement.

PO Moyer was the fifth or sixth officer to enter the front door. Upon entry, PO Moyer saw a living room as well as a short stairway leading to the second floor. In the living room there were a number of civilians sleeping on the floor. Upon seeing § 87(2)(b)'s arrest photograph, PO Moyer stated that he was one of the individuals in the living room. The first few officers who entered the front door drew their attention to these individuals. PO Moyer maintained a visual on the top of the stairs to watch for any residents of the house. While watching, he saw a male individual, § 87(2)(b), § 87(2)(b) exit and stand outside a back bedroom down the hallway on the second floor.

PO Moyer and Det. Sanchez went up toward § 87(2)(b) passing by two or three bedrooms to their left in the process. PO Moyer stated that he should have checked these bedrooms as he passed, but continued toward § 87(2)(b) because he had "tunnel vision." He did not recall if the doors to these bedrooms were open or closed and did not recall if he saw people inside of them. PO Moyer did not hear any officer state, "Get on your knees, asshole" and did not hear any officer use profanity.

§ 87(2)(b) stood still and was handcuffed by Det. Sanchez without incident. PO Moyer saw another individual, § 87(2)(b) lying in bed inside the room while looking at PO Moyer and Det. Sanchez. He was covered up to his neck in blankets, so PO Moyer requested that he show his hands. § 87(2)(b) did not comply, so PO Moyer grabbed him and placed him on the floor. § 87(2)(b) held his hands at his sides and would not provide them to PO Moyer. PO Moyer struggled with him and he and Det. Sanchez called for assistance from additional officers, but none came. Eventually, PO Moyer was able to place § 87(2)(b)'s hands behind his back and in handcuffs. He checked the bedroom for weapons, then took § 87(2)(b) and § 87(2)(b) down the hallway and downstairs, about ten to fifteen minutes after he had first gone upstairs. PO Moyer did not see any other civilians upstairs besides § 87(2)(b) and § 87(2)(b).

On the way back down the hallway from § 87(2)(b)'s room, PO Moyer passed by the other bedrooms. PO Moyer was later informed that Det. Reich and Det. Fried had a difficult time subduing § 87(2)(b) but he did not witness any part of § 87(2)(b)'s apprehension. There were prisoners already handcuffed in the living room by the time PO Moyer brought § 87(2)(b) down, but he did not recall if § 87(2)(b) was among them. At some point, PO Moyer saw § 87(2)(b) handcuffed inside the living room while he sat there along with the other prisoners. PO Moyer noticed that § 87(2)(b)'s lip was bleeding. § 87(2)(b) was not making any statements. PO Moyer did not recall if any detectives who were downstairs at this point went back upstairs, and he did not do so.

At the stationhouse, § 87(2)(b) complained to his brother and the other prisoners that he had been "beaten up" when he was apprehended. He did not provide more specific information or state that he had been choked. At some point while in the cells at the stationhouse, § 87(2)(b) changed his mind and stated that he wanted medical attention, so PO Moyer and PO Sposito transported him to the hospital.

Witness Officer: DET. VINCENT DICRESCENTO

- A § 87(2)(b), Det. Dicrescento was § 87(2)(b) old at the time of the incident.
- On May 29, 2013, Det. Dicrescento was assigned to Narcotics Borough Staten Island search warrant enforcement as the "rabbit" hydraulic tool operator. He was in plainclothes with a raid jacket and was assigned to an unmarked vehicle 0201-13 with Cpt. D'Orazio. He did not recall his exact tour.

Memo Book

Det. Dicrescento's memo book contained no entries regarding this incident because he was assigned to

the administrative staff between May 24, 2013 and June 12, 2013. Det. Dicrescento believed that at the time, officers assigned to administrative duties were not required to keep memo book entries, although they are now. (encl. c41-42)

CCRB Statement

Det. Vincent Dicrescento was interviewed at the CCRB on April 3, 2014 (encl. c43-45).

Det. Dicrescento was at the front door of the location as officers attempted to gain entry, but there was some difficulty getting into the door. The “rabbit” hydraulic tool, which Det. Dicrescento operated, was used to gain entry, but he did not recall if the ram was also used. Once the door was breached, Det. Dicrescento saw a stairway leading up to a second floor, with an open living room area to the left of the stairway. He believed there were two bunker teams assigned to this entry, and that one went upstairs while the other remained on the first floor. However, he did not recall which officers went where. Det. Dicrescento did not recall there being a rear basement entry at this location.

Once the front door of the house was breached, Det. Dicrescento remained outside the front door with Cpt. D’Orazio to maintain front security. From there, he saw § 87(2)(b) on the first floor being apprehended in the living room area. Officers (Det. Dicrescento did not recall which or how many) ordered § 87(2)(b) down on the floor, and he complied as he went to the floor and was handcuffed. As far as Det. Dicrescento could see, § 87(2)(b) was arrested without incident and there was no struggle or force used during his arrest. Det. Dicrescento did not recall if the officers who apprehended § 87(2)(b) went upstairs after doing so.

At some point after the initial entry, Cpt. D’Orazio, who was the overall supervisor, entered the house, while Det. Dicrescento remained outside the door. Det. Dicrescento did not recall at what point Cpt. D’Orazio entered. Several minutes later, Det. Dicrescento heard a “scuffle” upstairs as officers yelled at someone to get down and repeatedly yelled to see hands. Det. Dicrescento could not determine which officers were giving these commands. He also heard doors being entered. Det. Dicrescento did not hear officers calling for assistance from additional officers. He could not see anything that was happening upstairs and did not go upstairs at any point.

Det. Dicrescento was informed that a team of officers was assigned to enter the rear basement of the residence. Det. Dicrescento acknowledged that as the officer assigned to front security at this point, he would have seen officers coming into the front of the house from outside. However, he did not recall officers from outside coming into the house and going upstairs.

After ten to twenty minutes, between three and six young individuals were brought downstairs from the second floor by officers and seated in the living room area on the first floor. Det. Dicrescento observed this through the open front door of the house, but he never entered the location. All of the civilians were handcuffed by this point, and Det. Dicrescento did not see any of them struggling or resisting. Det. Dicrescento was shown arrest photographs from the incident. He recognized § 87(2)(b) § 87(2)(b) § 87(2)(b) and § 87(2)(b) as some of the individuals he saw being brought downstairs.

Det. Dicrescento did not state or hear any officer tell § 87(2)(b) that his son was an “asshole.” He did not hear any officer use profanities toward or in reference to any of the civilians. At no point did Det. Dicrescento see any officer punch, strike, or otherwise hit any civilians in the location. He did not see any civilian being struck with a bunker shield and did not see any chokehold being used.

Subject Officer: DET. BRENDAN O'BRIEN

- A § 87(2)(b), Det. O'Brien was § 87(2)(b) at the time of the incident.
- On May 29, 2013, Det. O'Brien worked from 3:27 a.m. to 12:00 p.m. assigned to search warrant execution with a field team from Narcotics Borough Staten Island. He was in plainclothes and assigned to an unmarked vehicle.

Criminal Court Report

The Criminal Court Report prepared on May 29, 2013 (encl. c47-48) notes that Det. O'Brien was informed by Det. Reich that § 87(2)(b) "attempted to resist a lawful arrest in that the defendant flailed his arms, struggled with [Det. Reich], punched and kicked at [Det. Reich], held his arms against his body and refused to be handcuffed."

Arrest Report

Arrest Report § 87(2)(b) (encl. c49-51), prepared by Det. O'Brien, notes that § 87(2)(b) was "arrested as pursuant to a criminal court search warrant. Defendant in possession of a quantity of marijuana/paraphernalia. Defendant did flail arms and swing at MOS, refusing to be handcuffed." § 87(2)(b) was charged with criminal use of drug paraphernalia, resisting arrest and unlawful possession of marijuana.

Memo Book

Det. O'Brien's memo book contained the following entries regarding the incident: 6:40 a.m., Search warrant at § 87(2)(b) 7 under arrest. (encl. c68-69)

CCRB Statement

Det. O'Brien was interviewed at the CCRB on February 25, 2014 (encl. c70-72)

Det. O'Brien was assigned to the basement entry along with Det. Rivera, Det. Ryan, Det. Malpeso, Det. Wittick, and Sgt. Capuano. By the time he went to the main floor of the house, about 5-10 minutes had passed since the initial entry. On the second floor, Det. O'Brien saw five additional civilians, all of whom had been apprehended and handcuffed by the time Det. O'Brien saw them. Two civilians were in one bedroom, two were in another bedroom, and one civilian was in a third bedroom. There were no physical struggles occurring at this time and the situation appeared under control. Det. O'Brien entered these bedrooms. He did not recall seeing Det. Reich or Det. Fried in any of the bedrooms. All of the civilians he saw on the second floor were calm and compliant at this point. Det. O'Brien did not see any injuries to the civilians. Det. O'Brien did not hear any officer state, "Get on your knees, asshole," or refer to any civilian as an "asshole" during the incident. He did not hear any profanities being used. Once the prisoners were taken out of the house, Det. O'Brien conducted a thorough search of the entire residence. Drugs were recovered in the basement and in the main part of the house.

Witness Officer: DET. STEVEN SPOSITO

- A white male who is § 87(2)(b), Det. Sposito was § 87(2)(b) at the time of the incident.
- On May 29, 2013, Det. Sposito worked from 4:27 a.m. to 1:00 p.m. assigned to the prisoner van

during search warrant enforcement with Narcotics Borough Staten Island, partnered with Det. Banghart. He was in plainclothes with a raid jacket and was assigned to an unmarked van.

Memo Book

Det. Sposito's memo book contained the following entries regarding this incident: 6:40 a.m., Search warrant executed at § 87(2)(b) basement. Eight under arrest; 8:50 a.m., 120th Precinct to process; 3:50 p.m., Resuming patrol with PO Moyer in regard to hospitalized prisoner; 7:10 p.m., Returned to command. (encl. c74-76)

CCRB Statement

Det. Steven Sposito was interviewed at the CCRB on April 9, 2014 (encl. c77-79).

Det. Sposito was not present for any part of the entry into the main floor of the residence. His partner, Det. Banghart, was assigned as outside security by the back of the house and never entered the location.

After being in the basement for ten to fifteen minutes, Det. Sposito went around to the front of the house, by which time about seven prisoners were handcuffed and lined up in the living room. Det. Sposito noticed that one prisoner's § 87(2)(b) s) face was red and was told by an officer from the upstairs entry team (he did not recall who) that this prisoner was on PCP and that he had struggled with the entry team. Det. Sposito did not hear any officer refer to a civilian as an "asshole."

When shown a Medical Treatment of Prisoner Report which lists Det. Sposito as the escorting officer for § 87(2)(b) Det. Sposito recalled that at approximately 4:00 p.m., soon after he had returned to his command, he was notified by a supervisor (he did not recall which) that he had to respond to the 120th Precinct stationhouse to bring a prisoner to the hospital. Det. Sposito recalled having a conversation with § 87(2)(b) about school. § 87(2)(b) seemed calm at this point and did not make any statements regarding why he was seeking medical treatment or how he had sustained any injuries. § 87(2)(b) was compliant the whole time as he was brought to the hospital.

Witness Officer: SGT. DOMINICK CAPUANO

- A § 87(2)(b), Sgt. Capuano was § 87(2)(b) at the time of the incident.
- On May 29, 2013 Sgt. Capuano (who has since been promoted to the rank of lieutenant), worked from 3:45 a.m. to 6:00 p.m. as the entry supervisor for a search warrant with Narcotics Borough Staten Island. He was in plainclothes with a raid jacket and was assigned to an unmarked vehicle.

Memo Book

Sgt. Capuano's memo book contained the following entries regarding the incident: 6:40 a.m., Search warrant at § 87(2)(b) Seven under arrest for disorderly conduct, resisting § 87(2)(b) § 87(2)(b) § 87(2)(b) (encl. c81-82)

Line of Duty Injury Report

The Line of Duty Injury Report for Sgt. Buckley completed by Sgt. Capuano (d10-11) states, "On Wednesday May 29, 2013 at approximately 6:40 a.m., at § 87(2)(b) Sgt. Cornelius Buckley was executing a search warrant during a major case takedown with N.B.S.I. personnel. While struggling with a perpetrator who was resisting arrest and refused to be handcuffed, Sgt. Buckley was kicked in the left knee, left wrist and right shoulder causing pain. The sergeant was taken to § 87(2)(b) where he was treated for his injuries. The sergeant is not going sick at this time. I recommend line

of duty designation."

CCRB Statement

Sgt. Dominick Capuano was interviewed at the CCRB on February 21, 2014 (encl. c83-85).

Sgt. Capuano participated in the basement entry, then went to the street in front of the location. The front door of the house was open but Sgt. Capuano could not really see inside and he did not see anything of note occurring at that point. He did not recall ever entering the front door of the residence or going up to the second floor. By this point, Sgt. Capuano believed that all of the prisoners had been brought to the prisoner van. He did not see any of them being brought downstairs. Sgt. Capuano did not hear any officers upstairs call for assistance. He did not see any officers from the basement entry going upstairs to assist with an arrest there.

Sgt. Capuano did not notice injuries to any of the prisoners or hear any of them complain of injuries. He was not informed of a struggle that occurred upstairs and did not recall any officers being injured. Sgt. Capuano was not involved with and did not witness the apprehension of any civilians at the location besides § 87(2)(b). Sgt. Capuano did not see any officer strike a civilian with a police shield, place a civilian in a chokehold or punch a civilian in the face. He did not hear any officer state, "Get on your knees, asshole."

Witness Officer: DET. MICHAEL RIVERA

- A § 87(2)(b), Det. Rivera was § 87(2)(b) old at the time of the incident.
- On May 29, 2013, Det. Rivera worked from 4:27 a.m. to 1:00 p.m. assigned as the bunker during search warrant executions with Narcotics Borough Staten Island. He was in plainclothes with a heavy vest, in unmarked vehicle 46557, and was partnered with Det. Ryan.

AIDED Report

The handwritten AIDED report regarding Sgt. Buckley's injury, prepared by Det. Rivera and reviewed by Lt. Ortiz, states, "At TPO while executing a search warrant, Sgt. Buckley was kicked by a perpetrator on his left knee, wrist and shoulders while attempting to make a lawful arrest. MOS was removed to § 87(2)(b) where he was treated for his injuries." (encl. d12-13)

Memo Book

Det. Rivera's memo book contained the following entries regarding the incident: 6:40 a.m., Arrived at § 87(2)(b) search warrant conducted. Assigned bunker #1, basement of location. One under arrest; 8:00 a.m., Resuming patrol; 10:00 a.m., Arrived at 120th Precinct. (encl. c87-88)

CCRB Statement

Det. Rivera was interviewed at the CCRB on April 8, 2014 (encl. c89-91)

Det. Rivera participated in the basement entry, then went out to his vehicle to get a tool bag in order to re-secure the doors that had been breached. Det. Rivera's vehicle was parked in the street and he passed the front of the house on the way to the vehicle. At the time he did so, he did not observe anything going on inside the front door of the house. He did not see any civilians or officers at the front of the house. Once he obtained the tool bag, Det. Rivera returned to the back of the house to begin repairing the basement doors. He did not go into the front of the house at this point. He did not recall if other detectives were still in the basement of the house while he was repairing the basement doors.

Once he was finished repairing the two basement doors, which took “a while,” Det. Rivera went around the house to repair the front entrance door. By this point, Det. Rivera believed that everyone who had been in the house had been taken out and placed in the prisoner van. Det. Rivera determined this because he saw nobody in the house, although he did not see any civilians being taken out and did not see them in the prisoner van. It took Det. Rivera some time to secure the front door. During this time, he entered the front door and placed some tools on the stairs leading to the second floor, but he never went upstairs. The only person he saw in the house at this point was Sgt. Buckley, who was in the kitchen near a sliding door. He did not see officers from outside entering the house at this point.

During the entire incident, Det. Rivera did not see any civilians besides § 87(2)(b). At no point did Det. Rivera hear an officer refer to a civilian as an “asshole” or any profanity being used towards civilians. He did not see any officer punch a civilian or place a civilian in a chokehold, and he did not see any officer strike a civilian with a bunker shield. Det. Rivera did not strike any civilian with his bunker shield during the incident.

Witness Officer: DET. RAYMOND WITTICK

- A § 87(2)(b), Det. Wittick was § 87(2)(b) at the time of the incident.
- On May 29, 2013, Det. Wittick worked from 3:27 a.m. to 12:00 p.m. assigned to Search Warrant Execution as part of a field team with Narcotics Borough Staten Island. He was in plainclothes with a raid jacket and was assigned to an unmarked silver Toyota minivan with Sgt. Capuano.

Memo Book

Det. Wittick’s memo book contained the following entries regarding the incident: 6:50 a.m., En route to § 87(2)(b) 7:00 a.m., At above, execute search warrant. Arresting officer – Det. O’Brien. (encl. c93-95)

CCRB Statement

Det. Raymond Wittick was interviewed at the CCRB on February 12, 2014 (encl. c96-97).

Det. Wittick participated in the basement entry, then waited outside the back door while Det. O’Brien searched the basement apartment. He never joined the second team on the first or second floors of the house and never went up to those floors. Det. Wittick did not see any prisoners besides § 87(2)(b) being escorted to the prisoner van. He did not see the other prisoners at any point, either at the scene or at the stationhouse. Det. Wittick did not see any of the officers who entered the basement with him go upstairs at any point. Det. Wittick did not see any civilian sustain an injury. He did not see any officer throw punches at any civilian and saw no force being used to apprehend a civilian in the house. He did not hear any profanities being used.

Witness Officer: DET. JOSEPH RYAN

- A § 87(2)(b), Det. Ryan was § 87(2)(b) old at the time of the incident.
- On May 29, 2013, Det. Ryan worked from 4:27 a.m. to 1:00 p.m. assigned to Search Warrant Execution as part of a field team with Narcotics Borough Staten Island, as bunker security. He was in plainclothes with a heavy vest and was assigned to an unmarked vehicle.

Memo Book

Det. Ryan's memo book contained the following entries regarding the incident: 6:40 a.m., Search warrant at § 87(2)(b) 7 under arrest. Basement search warrant. (encl. c99-100)

CCRB Statement

Det. Joseph Ryan was interviewed at the CCRB on February 12, 2014 (encl. c101-102).

Det. Ryan participated in the basement entry, then exited the basement and while standing outside the house, saw the remaining occupants of the house being brought outside the front entrance and to the prisoner van. He had not seen any of them prior to this and did not recall any of them resisting when he saw them. Det. Ryan did not recall who brought these individuals to the prisoner van and did not believe that he assisted them. He did not recall seeing injuries on any of the civilians and did not hear any of them complain of injuries. About 30 to 40 minutes after the initial entry, Det. Ryan went up to the first and second floors of the house to conduct an equipment search (to see if any equipment was left behind). By the time of this equipment search, all of the civilians in the house had already been apprehended and placed in the prisoner van. Det. Ryan did not go up to the first or second floor at any point prior to the equipment search. Det. Ryan did not hear any officer call a civilian an "asshole."

Witness Officer: DET. JAMES MALPESO

- A § 87(2)(b), Det. Malpeso was § 87(2)(b) at the time of the incident.
- On May 29, 2013, Det. Malpeso worked from 2:00 a.m. to 10:33 a.m. assigned to Search Warrant Execution as part of a field team with Narcotics Borough Staten Island, as the RAM operator. He was in plainclothes with a raid jacket and was assigned to an unmarked vehicle.

Memo Book

Det. Malpeso's memo book contained the following entries regarding the incident: 6:40 a.m., Search warrant conducted at § 87(2)(b) 7 under arrest for 220.39. RAM/Basement apartment. (encl. c104-106)

CCRB Statement

Det. James Malpeso was interviewed at the CCRB on February 12, 2014 (encl. c107-108).

Det. Malpeso participated in the basement entry, and exited the residence after § 87(2)(b) was brought out, at which point he saw the other six arrested individuals being brought out of the front door and into the prisoner van. He did not recall which officers were bringing these individuals out. Det. Malpeso did not see any injuries to these individuals. He did not see any of these individuals being non-compliant and he did not see any force being used against them by officers at any point. Det. Malpeso did not hear any civilian being called an "asshole."

Medical Records (privileged records folder)

§ 87(2)(b)'s Prehospital Care Report from § 87(2)(b) indicates that on § 87(2)(b) an ambulance was dispatched to § 87(2)(b) for the treatment of § 87(2)(b). The chief complaint was "Pain to left cheek." The Provider Impression was "No medical problem." The mechanism of injury was listed as "fight/brawl" and soft tissue injuries were noted. The Narrative History Text notes: "Upon arrival at the 120th Precinct, crew met § 87(2)(b) old male prisoner, awake and oriented, fully ambulatory, complains of being in a fight and getting punched in the left cheek. Patient has slight swelling and redness to area, denied loss of consciousness, neck or back pain, dizziness or blurred vision. Patient denies any other injury or trauma at this time.

Patient was given ice pack for the swelling. Patient refused transport to the hospital, as he did not want to miss court.” The EMTs left § 87(2)(b) in NYPD custody at the stationhouse.

A § 87(2)(b) or § 87(2)(b), § 87(2)(b) was admitted at § 87(2)(b) after being brought in while in NYPD custody. The following information was noted in his medical records:

Chief Complaint: Pain in nose, left eye, right knee after fight; Physician Notes: Involved in altercation 6:30 AM. Injury to left eye and mouth, also right knee. EMS was called to precinct earlier; History of present illness: § 87(2)(b) is a § 87(2)(b)-old male who reports being injured when he was assaulted by the police during an arrest. As per patient, he was sleeping when the police came in. He was dragged from the bed to the ground at which time he hyperextended his right knee. He was then struck about his face and head with fists and riot shields. He denies losing consciousness. Patient now complains of pain to the nose, left periorbital area, left jaw and right knee. Otherwise, no severe headache, neck pain, chest pain, abdominal pain, or back pain; Physical examination: Patient is alert, awake and in no distress. Arrived in the emergency department walking. ENMT: Ecchymoses to bilateral preorbital area, greater on the left. Tenderness over the left TMJ [jaw] with full range of motion of mandible; Emergency Department Course and Treatment: Patient's condition remained stable during emergency department evaluation, with no evidence of serious head injury, neurologic injury, chest or abdominal injury...Treated with Motrin PO. Clinical Impression: facial contusions, closed head injury.

§ 87(2)(b) was diagnosed with “facial contusion” and given Motrin 600mg. Radiology Reports showed no orbital/facial fractures.

§ 87(2)(b) was treated again at § 87(2)(b) on May 31, 2013, at 6:40 PM. The following information was noted in his medical records:

Chief complaint: Body pain; Physician Notes: Patient ambulates. Complains of neck pain, headache, body pain. Patient states he was assaulted by NYPD 2 days ago; History of Present Illness: § 87(2)(b) is a § 87(2)(b)-old male who reports that he was assaulted by police 2 days ago when they came to search his house, dragged him out of bed and beat repeatedly hit him in the face. He tried to block the blows and was hit on the left wrist. He was seen here on 5/29 and had a CT of the face due to trauma. Yesterday he noted pain in his wrist and non-radicular lateral neck with movement. Has no history of prior neck problem.

Diagnostics: X-ray wrist: No soft tissue swelling, no fracture; Emergency Department Course and Treatment: Patient's condition was stable during emergency department evaluation. Given Naproxen and Flexeril with relief of pain. Wrist stabilized with an ace wrap.

Radiology Reports no fracture or dislocation to the left hand. § 87(2)(b) was diagnosed with a neck strain and a contusion of the wrist. The Aftercare Instructions note that a neck strain, or cervical strain, “occurs when the head snaps forward during an accident or fall,” and that the doctor did not think it was necessary to take an x-ray.

Officers Not Interviewed

§ 87(2)(b) and § 87(2)(b) stated that there was a supervising officer present by § 87(2)(b)'s bedroom who witnessed the physical struggle. Of the higher ranking officers assigned to the search warrant, only Lt. Jaime Ortiz was reported (by Sgt. Buckley) to have been assigned to the main floor and to have gone into § 87(2)(b)'s bedroom. However, because Lt. Ortiz retired from the NYPD, the CCRB was unable to obtain testimony from him.

NYPD Document(s)

Search Warrant

A search warrant (encl. d1-2) was issued on § 87(2)(b) for the search of § 87(2)(b) in Staten Island and authorized police officers to search the location for and seize cocaine, drug paraphernalia, records, currency electronic communication equipment and other evidence

Medical Treatment of Prisoner Reports

Two Medical Treatment of Prisoner reports were prepared for § 87(2)(b) (encl. d8-9). One, signed by Sgt. Buckley a § 87(2)(b), notes that § 87(2)(b) “injured his left eye and face while resisting arrest” during the search warrant execution. The report notes that § 87(2)(b) refused medical aid in the field and at the command. Another report, signed at 6:30 p.m. on the same date, notes that § 87(2)(b) complained of “pain to face and nose resulting from prisoner resisting arrest violently” and was transported to RUMC. Det. Sposito is listed as the escort officer.

Search Warrant Pre-Execution Plan (Tactical Plan)

The Pre-Execution Plan prepared regarding the search warrant executed at § 87(2)(b) on May 29, 2013 (encl. d3) does not differentiate between officers assigned to the main and basement entries. Det. Rivera and Det. Reich are listed as bunker officers, while Det. Ryan and Det. Fried are listed as bunker security officers. According to the report, Cpt. D’Orazio was the overall supervisor and Sgt. Capuano was the entry supervisor. The remaining officers (Det. Malpeso, Det. Wittick, Det. McNamee, Det. Stephani Sanchez, Det. Nelva Centeno, Det. Dicrescento, Det. Stacy Meigs, PO Moyer and Det. O’Brien) were assigned to various duties. Det. Sposito and Det. Banghart were assigned to the prisoner van. Det. Marshall is not listed on the report.

Command Log

The 120th Precinct Command Log entry for § 87(2)(b)’s arrest (encl. d28) notes that he was lodged at the stationhouse at 9:00 a.m. His physical/mental condition was “good,” and he was removed to RUMC at 4:30 pm. and returned at 6:00 p.m. on May 29, 2013.

§ 87(2)(b)

Status of Civil Proceedings

- § 87(2)(b) and § 87(2)(b) filed a Notice of Claim with the City of New York on June 4, 2013, claiming violation of civil rights, physical, mental and emotional injuries, excessive force, assault and battery, and seeking two million dollars as redress (encl. e1a-b).

§ 87(2)(b), § 87(2)(c) (impair contract awards or CPA)

Civilian(s) CCRB History

- This is the first CCRB complaint filed by § 87(2)(b) (encl. a12)

Subject Officer(s) CCRB History

- Det. O’Brien has been a member of the service for fifteen years and there is one substantiated CCRB allegation against him (encl. a1-2):

- In CCRB case 200401456, a stop allegation was substantiated. Charges were recommended and Det. O'Brien received instructions.
- Det. Reich has been a member of the service for ten years and there are two substantiated CCRB allegations against him (encl. a3-5):
 - In CCRB case 200503310, allegations of a stop and refusal to provide name/shield number were substantiated and charges were recommended. No dispositions are available.
- Det. Fried has been a member of the service for nine years and there are no substantiated CCRB allegations against him (encl. a6-7)
- Det. Brenes has been a member of the service for twenty-three years and there are no substantiated CCRB allegations against him (encl. a8)
- Det. Marshall has been a member of the service for eight years and there are no substantiated CCRB allegations against him (encl. a9)
- Sgt. Buckley has been a member of the service for twenty years and there are four substantiated CCRB allegations against him (encl. a10-11):
 - In CCRB case 200400820, allegations of frisk, vehicle stop and vehicle search were substantiated. Charges were recommended and Sgt. Buckley received instructions.
 - In CCRB case 201207787, a frisk allegation was substantiated and charges were recommended. No disposition is available.

Conclusion

Identification of Subject Officer(s)

§ 87(2)(b) alleged that the officer who made initial physical contact with him, used a chokehold and used discourteous language was a heavyset white male in his mid-30s. He also stated that he noticed this officer's knuckles bleeding. Along with Det. Fried, Det. Reich was one of the first two officers to enter § 87(2)(b)'s bedroom and engage him physically and Det. Reich acknowledged that he got onto § 87(2)(b)'s bed when attempting to apprehend him. § 87(2)(b) and § 87(2)(b) also described an officer with bruising to his knuckles, and § 87(2)(b) identified this officer in a photo viewing as Det. Reich. Therefore, Det. Reich has been identified as the subject of Allegations B-D.

In his CCRB testimony, § 87(2)(b) alleged that during the struggle, two officers carrying bunker shields, one white male and one Hispanic male, entered his room and that one of these officers struck him twice with a shield. He did not know which of these two officers struck him. However, during his photo viewing, § 87(2)(b) identified Det. Rivera as the officer who struck him with a police shield. Det. Reich was a bunker officer for the upstairs entry and acknowledged entering the bedroom first with Det. Fried, but § 87(2)(b)'s testimony differentiated between these officers and the one who would later strike him with a shield. The only other officer executing the search warrant who was assigned to carry a bunker shield was Det. Rivera, which is consistent with § 87(2)(b)'s identification during the photo viewing. However, according to his testimony and that of other officers, Det. Rivera was the bunker officer assigned to the basement entry and took no part in the apprehension of § 87(2)(b) or the execution of the warrant upstairs. While Det. Reich was the only officer who both acknowledged being in § 87(2)(b)'s room and was assigned to carry a bunker shield, he denied using it and stated that he put it down before engaging § 87(2)(b). In his statement to IAB, § 87(2)(b) said that the officer whom he saw striking § 87(2)(b) with a shield then put down the shield and punched § 87(2)(b) 5-6 times, but there was no officer to whom § 87(2)(b) attributed both of these actions. It is disputed by officers whether any shields were used to apprehend § 87(2)(b) and it is possible that any number of officers could have picked up a discarded bunker shield during the incident. Due to § 87(2)(b)'s inconsistent identification of the officer who struck him with a shield and the lack of definitive testimony,

it remains unknown who the subject of this allegation is. Allegation E, therefore, has been pled against “An officer.”

Investigative Findings and Recommendations

Allegation A – Abuse of Authority: Det. Brendan O’Brien entered and searched § 87(2)(b) in Staten Island.

The entry and search of § 87(2)(b) on § 87(2)(b) was conducted under the authority of a valid New York criminal court search warrant (encl. d1-2) obtained by Det. O’Brien. § 87(2)(g)

Allegation B – Force: Det. Mathew Reich used a chokehold against § 87(2)(b)

Allegation D – Force: Det. Mathew Reich used physical force against § 87(2)(b)

Allegation F – Force: Det. Matthew Fried used physical force against § 87(2)(b)

Allegation G – Force: Det. Cesar Brenes used physical force against § 87(2)(b)

Allegation H – Force: Det. Steven Marshall used physical force against § 87(2)(b)

Allegation I – Force: Sgt. Cornelius Buckley used physical force against § 87(2)(b)

It is undisputed that force was used in order to apprehend § 87(2)(b) by all of the officers who entered his bedroom. The nature of the force used and the circumstances surrounding it, however, were disputed. While § 87(2)(b) testified that his first memory of waking up was being placed in a chokehold by Det. Reich, all of the officers who entered his bedroom stated that § 87(2)(b) was awake prior to any physical contact. Furthermore, § 87(2)(b) denied resisting and claimed that he only attempted to cover his head during the struggle, although all of the officers involved described § 87(2)(b) as violently resisting their attempts to place him under arrest. Police documentation of the incident, particularly the Line of Duty paperwork documenting Sgt. Buckley’s injuries, corroborates the officers’ accounts of § 87(2)(b)s resistance. Statements by § 87(2)(b) and § 87(2)(b) generally corroborate the force alleged by § 87(2)(b) although some details differ.

All of the subject officers interviewed denied that § 87(2)(b) was placed in a chokehold or that he was ever struck with a police shield. They denied that any force was used or required after § 87(2)(b) was placed in handcuffs. Of these officers, only Det. Brenes acknowledged that any punches were thrown at § 87(2)(b) during the struggle. § 87(2)(b), § 87(2)(g)

§ 87(2)(b) He indicated that “everyone was throwing punches,” including § 87(2)(b)s medical records document that he sustained contusions to his face and wrist, as well as a neck strain, and no fractures were found.

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Allegation C – Discourtesy: Det. Mathew Reich spoke discourteously to § 87(2)(b)

§ 87(2)(b) alleged that during the physical altercation, Det. Reich told him, “Get on your knees, asshole.” § 87(2)(b) stated that when the house’s occupants were downstairs in the living room, Det. Reich referred to § 87(2)(b) as “asshole” while speaking with § 87(2)(b). In his telephone statement, § 87(2)(b) recounted a slightly different version of this conversation that did not involve the use of profanity. § 87(2)(b) who was reportedly within earshot of this discourtesy, did not mention it in his testimony. § 87(2)(b) also did not allege that Det. Reich stated this, but did describe a conversation in the living room in which Det. Reich told him that § 87(2)(b) had a “tough head.”

§ 87(2)(g)

[REDACTED]

[REDACTED]

[REDACTED].

Allegation E – Force: An officer struck § 87(2)(b) with a police shield.

As noted in the “Identification of Subject Officers” section above, the varying statements and lack of evidence leave the subject of this allegation unidentified. § 87(2)(g)

[REDACTED]

Team: _____

Investigator: _____
Signature Print Date

Supervisor: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date